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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/923,138	09/04/1997	RAJU KUCHERLAPATI	CELL-4.8	2306

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JAMES F HALEY  
FISH & NEAVE  
1251 AVENUE OF THE AMERICAS  
NEW YORK, NY 100201104

EXAMINER

BECKERLEG, ANNE M

ART UNIT

PAPER NUMBER

1632

DATE MAILED: 06/18/2002

*ls*

Please find below and/or attached an Office communication concerning this application or proceeding.

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Applicant's response received on 4/2/02 has been entered. Claims 46-47 have been amended as requested. However, please note that applicant's requested amendment to the specification to insert the entire disclosure of WO 94/02602 as pages 39-141 has not been entered. Claims 2, 3, 46, and 47 are pending in the instant application.

***Response to Amendment***

The reply filed on 4/2/02 is not fully responsive to the prior Office action because of the following omission(s) or matter(s): the applicant has requested the insertion of the entire disclosure of WO 94/02602 (PCT/US93/06926) in order to overcome issues regarding new matter, improper incorporation by reference, and rejection of the claims under 35 U.S.C. 112, first paragraph. The pages of the WO document provided, which applicants refer to as 39-141, cannot be entered in their present state for the following reasons. The inclusion of an entire foreign patent application would render the specification substantially incomprehensible and confusing. The WO document includes a new title and a section cross-referencing applications to which the instant application does not have priority. It includes a description of figures, and photocopied pages of figures which have the same figure numbers as the figures filed with the instant application. In addition, the applicant has not petitioned for the addition of new informal or formal drawings of these figures. The WO document also contains numerous sequences which would place the

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application in non-compliance with 37 CFR 1.821-1.825. Finally, the WO pages include new claims 1-11. Claims 1 of the instant application has previously been canceled and claims 2-11 already are already pending in the instant application.

The previous office action stated that the incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973). The applicants have clearly attempted to comply with this request by submitting the pages of the WO document received on 6/25/01. However, please note that in regards to the incorporation of material essential by reference, particular attention should be directed to specific portions of the referenced document where the subject matter being incorporated may be found. MPEP 608.01(p). Thus, the amendatory material should particularly teach the essential subject matter. It is therefore suggested that applicant's select those sections of the WO document which specifically relate to the production of transgenic mouse which comprise the SpeI-SpeI fragment commencing from the VH6 gene and continuing through the human D segment genes, human J segment genes and human constant region genes and into the C $\delta$  gene of that locus, wherein said SpeI-SpeI fragment

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dos not include a gamma constant region. It is further suggested that if applicants resubmit pages of the WO document that include nucleic acid sequences that the applicants provide a paper sequence listing and CRF, and request the amendment of the newly added specification pages to include SEQ ID NOS for the disclosed sequences in order to comply with the rules for submission of nucleic acid and/or amino acid sequences under 37 CFR 1.821-1.825.

Since the above-mentioned reply appears to be *bona fide*, applicant is given a TIME PERIOD of **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication from the examiner should be directed to Anne Marie S. Wehbé, Ph.D., whose telephone number is (703) 306-9156. The examiner can be reached Mon-Thurs and every other Friday from 9:30-7:00. If the examiner is not available, the examiner's supervisor, Deborah Reynolds, can be reached at (703) 305-4051. General inquiries should be directed to the group receptionist whose phone number is (703) 308-0196. The technology center fax number is (703) 308-4242, the examiner's direct fax number is (703) 746-7024.

Dr. A.M.S. Wehbé

